

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WAGO VERWALTUNGSGESELLSCHAFT MBH,

Plaintiff,

v.

ROCKWELL AUTOMATION, INC.,

Defendant.

Case No. 1:11cv756

Judge Christopher A. Boyko
Magistrate Judge Nancy A. Vecchiarelli

**DEFENDANT ROCKWELL AUTOMATION INC.'S
MEMORANDUM IN SUPPORT OF ITS OPPOSED MOTION TO ADJOURN
THE OCTOBER 5, 2012 CASE MANAGEMENT CONFERENCE**

Defendant Rockwell Automation, Inc. (“Rockwell”), by and through its attorneys Chadbourne & Parke LLP, respectfully requests an adjournment of the October 5, 2012 Case Management Conference (“CMC”). Rockwell requests that the conference be adjourned until October 26, 2012 or the next available date that is convenient for the Court. The parties have met and conferred in good faith, but were unable to reach an agreement on the requested adjournment. Opposing counsel has agreed to submit any opposition to this motion by Tuesday, October 2, 2012.

On September 19, 2012, the Court issued a notice scheduling the CMC to be held on October 5, 2012. See Dkt. 56. The Court’s notice requires that “**LEAD COUNSEL AND ALL PARTIES MUST BE PRESENT IN PERSON.**” Id. (emphasis in original). On September 21, 2012, counsel for Rockwell informed counsel for plaintiff WAGO Verwaltungsgesellschaft mbH (“WVG”) that Rockwell’s counsel was unavailable for the CMC on October 5, 2012 and requested that the CMC be rescheduled for October 26, 2012. See Ex. 1.¹ WVG opposed. In

¹ All exhibits are attached to the accompanying Declaration of Paul J. Tanck.

opposing, however, WVG stated that it did not have a conflict with the proposed October 26 date and would otherwise be available for a conference on that date. Id.

Rockwell's counsel is unavailable for the CMC on October 5 due to a patent infringement trial set to begin on October 9 involving four patents being asserted by Rockwell in the United States District Court for the Western District of Wisconsin. In connection with the trial, Rockwell's counsel is scheduled to attend a final pre-trial conference in Madison, Wisconsin on Wednesday, October 3, 2012 and is scheduled for other pre-trial preparations on October 4 and 5 that involve travel for witness preparation.

Due to this conflict, Rockwell's counsel reached out to WVG's counsel on September 21, 2012 to request that the CMC be moved to October 26. Despite the date being an available date for both parties, WVG has been unwilling to reschedule. Moreover, WVG has failed to explain any prejudice that it would suffer as a result of a three week adjournment of the CMC. Further, WVG's suggestion that Rockwell's counsel should participate in the CMC by phone fails to take into consideration the Court's directive that "lead counsel and all parties must be present in person." In addition, there are various discovery and scheduling issues that will be raised at the CMC that would not be conducive to Rockwell's participation by telephone.

Accordingly, since WVG has not alleged any prejudice that would result from the adjournment and since both Rockwell's counsel and WVG's counsel are available on October 26 for the CMC, Rockwell respectfully requests that the CMC be adjourned and rescheduled for either October 26 or the next available date that is convenient for the Court.

Dated: September 28, 2012

s/ Paul J. Tanck

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**ATTORNEYS FOR DEFENDANT
ROCKWELL AUTOMATION, INC.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record are being served this 28th day of September, 2012, with a copy of this document via the Court's CM/ECF system.

s/ Paul Tanck

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